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EXAMINER

PUENTE, EMERSON C

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/721,475 | <b>Applicant(s)</b><br>MORRIS ET AL. |  |
|                              | <b>Examiner</b><br>Emerson C. Puente | <b>Art Unit</b><br>2113              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This action is made **Non-Final**. Claims 1-27 have been examined.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 4 discloses wherein the short term memory is at least one of a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive, which was not described in the specifications in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Instead, the specification discloses wherein non-volatile memory (not short term memory), may be a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive (see page 6 paragraph 30).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2113

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 discloses wherein the short term memory is at least one of a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive. However, the specification only discloses wherein non-volatile memory (which is understood to be long term memory) may be a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive (see page 6 paragraph 30). Examiner is uncertain whether applicant intended the memory which is at least one of a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive to be a "long term memory" or "short term memory".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2113

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,694,451 of Atkinson referred hereinafter "Atkinson '451".

Examiner notes that Atkinson '451 in column 13 lines 55-60 incorporates by reference US Patent No. 6, 546,472 of Atkinson et al. referred hereinafter "Atkinson '472", which is introduced in the rejection below

In regards to claim 1, Atkinson '451 discloses:

a short term memory (see column 1 lines 38-40);

an application program configured to store data in the short term memory (see column 1 lines 24-28);

a long term memory (see column 7 lines 38-41);

a store program configured to store data in the short term memory in the long term memory (see column 7 lines 38-41); and

a restore program configured to detect a discrepancy between data stored in the short term memory and data stored in the long term memory, and if a discrepancy is detected, to copy data related to the discrepancy from the long term memory in the short term memory (see column 9 lines 40-57).

In regards to claim 2, Atkinson '451 discloses:

wherein the store program is further configured to run automatically (see column 8 lines 3-7).

In regards to claim 3, Atkinson '451 discloses:

wherein the restore program is further configured to run automatically (see column 9 lines 44-46).

In regards to claim 4, Atkinson '451 discloses:

wherein the short term memory is at least one of a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive (see column 7 lines 38-41; based on the interpretation that the applicant meant to claim "a long term memory" as explained in the 112 rejection stated above).

In regards to claim 5, Atkinson '451 discloses:

wherein the restore program is further configured to detect a discrepancy using check sum techniques (see column 9 lines 24-28).

In regards to claim 6, Atkinson '451 discloses:

wherein the data stored includes at least one of application program data, program settings, binary files, queued messages, infrastructure data, communications software, transactional data, communications software settings, system registry data, and database records (see column 1 lines 24-37).

In regards to claim 7, Atkinson '451 discloses:

periodically storing data saved in short term memory to long term memory.

Incorporated by reference Atkinson '472 further discloses periodically storing data saved in short term memory to long term memory (see column 4 lines 35-38);

Art Unit: 2113

detecting discrepancies between the data saved in short term memory and the data saved in long term memory; and if discrepancies are detected, replacing the data saved in short term memory with the data saved in long term memory (see column 9 lines 40-57).

In regards to claim 8, Incorporated by reference Atkinson '472 discloses:

wherein the data periodically saved in short term memory is automatic (see column 4 lines 35-38).

In regards to claim 9, Incorporated by reference Atkinson '472 discloses:

wherein the data periodically saved in long term memory is automatic (see column 4 lines 35-38).

In regards to claim 10, Atkinson '451 discloses:

wherein the discrepancies are automatically detected (see column 9 lines 40-58).

In regards to claim 11, Atkinson '451 discloses:

wherein the replacing the data saved in short term memory is automatic (see column 9 lines 40-58).

In regards to claim 12, Atkinson '451 discloses:

wherein the replacing the data saved in long term memory is automatic (see column 7 lines 38-41).

In regards to claim 13, Atkinson '451 discloses:

wherein the discrepancies are detected using check sum techniques (see column 9 lines 24-28).

In regards to claim 14, Atkinson '451 discloses:

wherein the data periodically saved in short term memory includes at least one of application program data, program settings, binary files, queued messages, infrastructure

Art Unit: 2113

data, communications software, transactional data, communications software settings, system registry data, and database records (see column 1 lines 24-37).

In regards to claim 15, Atkinson '451 discloses:

receiving a first set of data from volatile memory (see column 9 lines 45-47);

receiving a second set of data from non-volatile memory (see column 9 lines 47-4950); and

determining whether the first set of data matches the second set of data (see column 9 lines 44-55).

In regards to claim 16, Atkinson '451 discloses:

if the first set of data does not match the second set of data, replacing the first set of data with the second set of data in volatile memory (see column 9 lines 51-54).

In regards to claim 17, Atkinson '451 discloses:

determining whether the first set of data matches the second set of data comprises determining whether the first set of data is an exact duplicate of the second set of data (see column 9 lines 51-54).

In regards to claim 18, Atkinson '451 discloses:

if the first set of data does not match the second set of data identifying a subset of the first set of data that does not match the second set of data (see column 9 lines 51-54).

In regards to claim 19, Atkinson '451 discloses:

wherein check sum techniques are used to determine whether the first set of data matches the second set of data (see column 9 lines 24-28).



Art Unit: 2113

In regards to claim 20, Atkinson '451 discloses:

means for periodically storing data saved in short term memory to long term memory. Incorporated by reference Atkinson '472 further discloses periodically storing data saved in short term memory to long term memory (see column 4 lines 35-38);

means for detecting discrepancies between the data saved in short term memory and the data saved in long term memory; and means for replacing the data saved in short term memory with the data saved in long term memory if discrepancies are detected (see column 9 lines 40-57).

In regards to claim 21, Atkinson '451 discloses:

periodically storing data saved in short term memory to long term memory.

Incorporated by reference Atkinson '472 further discloses periodically storing data saved in short term memory to long term memory (see column 4 lines 35-38);

detecting discrepancies between the data saved in short term memory and the data saved in long term memory; and if discrepancies are detected, replacing the data saved in short term memory with the data saved in long term memory (see column 9 lines 40-57).

In regards to claim 22, Atkinson '451 discloses:

volatile memory (see column 1 lines 38-40);

an application program configured to store data in the volatile memory (see column 1 lines 24-28);

non-volatile memory (see column 7 lines 38-41);

Art Unit: 2113

a first module configured to access data in the volatile memory and store it in the non-volatile memory (see column 7 lines 38-41); and

a second module configured to determine a discrepancy exists between data stored in the volatile memory and data stored in the non-volatile memory, and at least partly in response to determining discrepancy exists, to access data related to the discrepancy from the non-volatile memory and to store the accessed data in the volatile memory (see column 9 lines 40-57).

In regards to claim 23, Atkinson '451 discloses:

wherein the first module is configured to automatically access data in the volatile memory and automatically store it in the non-volatile memory (see column 8 lines 3-7).

In regards to claim 24, Atkinson '451 discloses:

wherein the second module is configured to automatically determine a discrepancy exists (see column 9 lines 40-58).

In regards to claim 25, Atkinson '451 discloses:

wherein the second module is configured to automatically access data related to the discrepancy from the non-volatile memory and to store the accessed data in the volatile memory (see column 9 lines 40-58).

In regards to claim 26, Atkinson '451 discloses:

wherein the second module is configured to use check sum techniques to determine whether a discrepancy exists (see column 9 lines 24-28).

In regards to claim 27, Atkinson '451 discloses:

Art Unit: 2113

where the data stored in volatile memory includes at least one of application program data, program settings, binary files, queued messages, infrastructure data, communications software, transactional data, communications software settings, system registry data, and database records (see column 1 lines 24-37).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,473,856 of Goodwin et al. referred hereinafter "Goodwin" in view of US 6,467,038 of Piwonka et al referred hereinafter "Piwonka".

In regards to claim 1, Goodwin discloses:

a short term memory (see column 2 lines 29-39);

an application program configured to store data in the short term memory (see column 2 lines 29-39);

a long term memory (see column 2 lines 29-39);

a store program configured to store data in the short term memory in the long term memory (see column see column lines 29-39); and

a restore program configured to detect a discrepancy between data stored in the short term memory and data stored in the long term memory, and if a discrepancy is

Art Unit: 2113

detected, to copy data related to the discrepancy from the long term memory in the short term memory (see column 2 lines 64 to column 3 lines 6).

However, Goodwin fails to explicitly disclose wherein the device is a mobile device.

Piwonka discloses computer systems are may be configured a number of ways such as a laptop unit, indicating a mobile device (see column 4 lines 55-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goodwin and Piwonka such that the computer system is laptop unit, indicating a mobile device. A person of ordinary skill in the art would have been motivated to combine the teachings because Goodwin discloses implementing his teaching within a computer system architecture (see column 1 lines 12-15) and laptop unit, as per teachings of Piwonka, is a known configuration of a computer system that would provide a suitable computer system architecture for implementing the teachings of Goodwin (see column 4 lines 55-60).

In regards to claim 4, Goodwin discloses:

wherein the short term memory is at least one of a compact flash memory, a memory stick, a smart media card, a micro-drive, a USB flash drive, a secure digital memory, a multimedia card, and a hard drive (see column 3 lines 5-6).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2113


See PTO 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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